App. F. IX-4.

1932 33 File No. 29. 32

Previous References (Gen) Serial Nos. 1 & 2.

Later References

Preserve

PRESERVED

18

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two.

Part B for September 1932.

SUBJECT.

Assault & Ry: Servants by Public —

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2) To Asst-Secy: Rys.

No. P1678 of 20.9.32

State the rates which may be made by Govt. of India in engaging the services of the P.Pr or the prosecuting Inspector as the case may be

D. Asst Secy 26.9.32.

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 29-32

FILE HEADING.

Assault of Railway Servants by Public.

FROM

The Agent Mysore Railways

No. 1723 Dated 24.8.32 Received 25.8.3

Diary No. 1191 | Enclos. | Spare copies | Serial No. 1

BRIEF ABSTRACT OF LETTER

Stating that the gangmen who are appointed to look after the line are often assaulted and roughly handled by the Public while preventing them from trespassing the Ry. Premises and that when the Cases are referred to the Police they are treated unrecognizably on the ground that gangmen are not Ry. servants and requesting to issue necessary orders to take them up on Police to Cas

NOTES AND ORDERS.

1) The main question involved in this Case is "whether gangmen are Public Servants. Sec. 1191(1) of the Railways states that "Every railway servant shall be deemed to be a Public Servant for the purpose of Chapter IX of I.P.C. (Sections 161-171). Sub section (4) of the same Section states that "notwithstanding anything in sec 21 of the I.P.C. a railway servant shall not be deemed to be a Public Servant for any of the purpose of that Code

NOTES—First Sheet

ap: Rlys • mentioned in See (1).

2) The offence Complained of Comes under sec 353 of the I.P.C. for such gangmen Cannot be treated as Public servants according to sec 119 (4) of the Ry. Regulation. (unless the special permission of the Govt is obtained in the matter.)

3) The D.P.W. Is replied on the same line when a reference was made to him in this Connection by the Supdg Engr, Rlys. Rys. The position of the

4) Under the Circumstances stated in the P.W.D. the position of the gangmen may be Considered sympathetically and sec 119 (4) of the Ry. Regn be suitably amended so as to give ample protection and personal safety to the poor workers.

139
130/0

This is sent to me without the initials of the Govt.

Dy Secy 30/8.

5) Under sec 119 of the Ry Regn, a Ry servant is deemed to be a public servant under the Penal code only for offences under Chapter IX of the Code. He cannot therefore be said to be a public servant for an offence under sec 353 I.P.C; any assault of such a railway servant can at best fall under sec 103 of the Ry Regn or Sec 352 I.P.C, both of which are non-cognisable & the Police therefore

Serial No.

cannot take any action except under the orders of a Magistrate—

4) The matter cannot be set right by means of an order of Govt as suggested by the Agent, Mysore Rys. If assault of a Rly servant is to be made a cognisable offence under sec 353 I.P.C, sec 119 of the Rly Regulation requires to be amended. The necessity or the desirability for any legislation on this point is a matter for consideration first in the Rly Sects & then in the Legislative Section.

7) The Supdt Ways & Works Suggests in his letter of 25th July 1932 that the Department may give help to the servant in launching prosecutions etc in such cases and that in fit cases, the services of the PPr or the Prosecuting Inspector may be given for the purpose. This suggestion appears reasonable, but there is no necessity to pass any general order as proposed. The Agent may in proper cases make a reference to Govt and obtain orders for engaging the services of the PPr or the Prosecuting Inspector as the case may be.

8) Submitted for orders.

2nd member) 31-8-32

1) Papers to 1/9/32

Off. accounts

3/9

OFFICE OF THE ACCOUNTANT GENERAL MADRAS 3-1 AUG 1932 No. 1706

NOTE—Contn. Sheet.

WD 70—GBPM—50,000—13-8-31.

1191

File No. of 193 General and Revenue Secretariat

GENERAL SECRETARY'S Secy F Ho

Dft Subs for approval

ISD 2/9.

Fair dft please

DMP 2/9

TYPING SECTION 2 SEP. 1932 GENL. & REV. SECTT.

Typed dft put up

ISD 5/9.

Refer paras 5 to 7 and 9 supra — Draft put up may be approved

Gen Secy) DMP 5/9

TYPING SECTION 19 SEP. 1932 GENL. & REV. SECTT.

Please speak to me

RG 6/9/32

Issue

DMP 19.9.

Ltr.

The Agent. Rly Rys.

no C. 1678 dated 20.9.32 informing that in proper Case reference may be made to Govt and orders obtained for engaging the services of the PPr in the Prosecuting Inspectorate as the Case may be.

B

ISD 21/9/32

...A 387—2000—2-5-32

MYSORE RAILWAYS

1191/32

All communications should be addressed to the Agent, Mysore Railways, Mysore by TITLE, not by NAME

AGENT'S OFFICE,

Mysore, 22nd August, 1932.

No. 1723 /Fl.

Enc. 6 sheets

From

THE AGENT,

Mysore Railways,

MYSORE.

GENERAL SECRETARY 25 AUG. 1932 No. Law

To

The Secretary
to the Government of His Highness the Maharaja of
Mysore, General Departments,
Law Section, Bangalore.

Sir,

Assault of Railway Servants by Public.

I have the honour to state that Gangmen of the Engineering Department who are appointed to look after the line, have to come in contact with the Public, sometimes, to prevent them from trespassing the Railway premises. On doing so, they have been roughly handled by the Public on many occasions. If the cases of the assault are referred to the Police the offence is treated as non-cognizable one on the ground that Gangmen are not Government servants, vide copy of letter No.C.1064/30 dated the 24th Feby., 1931, addressed to the Superintendent, Way & Works, Mysore Railways, on the subject (copy enclosed). The result is that the Gangmen are left entirely to the mercy of rowdy villagers and they cannot be expected to do their duty properly and without protection. It is therefore necessary that they should be treated as public servants and due protection given them so that the Police may take up the case when the servants of the Railway are assaulted, while discharging their duties. In a recent case, one of the Gangmen had to file a complaint before a Magistrate and it was refused for want of Court fee stamps. The Gangmen are in receipt of a small pay of Rs.14/- to Rs.16/- per mensem, and they cannot be expected to

p.t.o.

to bear any expense on this account, nor could they avail themselves of legal assistance by payment. I, therefore, request that whenever there is interference with the men of this Department, while they are on duty, the case may be ordered to be taken as a Police case. I enclose copies of letters received from the Superintendent, Way & Works, Mysore Railways, in the matter for the information of Government.

I have the honour to be,
sir,
Your most obedient servant.

A Agent.

MSAB/

22.8.

All communications should be addressed to the Agent, Mysore Railways, Mysore by TITLE, not by NAME

MYSORE RAILWAYS

MMM A 25—1000 26-7-32

AGENT'S OFFICE,

Mysore, ... 193... .

No. ...../Fl. .....

Enc. .....

Copy of letter No.582 dated 22/25-7-1932 from the Supdt., Way & Works, Mysore Rys., Mysore, to the Agent, Mysore Railways, Mysore.

Assault of railway servants by public.

With reference to Resolution No.475 of Officers' Meeting No.62, I beg to forward herewith copies of my letter No.5205 dated 6/8/31 to Inspector-General of Police and his letter No.C.1064 of 24/2/31, in reply thereto and with reference to letter No.Q.2-Dis. 2232/30 dated 2/2/31, from Inspector-General of Police to your address (copy sent to this office with your No.7916 dated 12/2/1931) I beg to state that of late assaults of gangmen are frequent and as the Police refuse to take up such cases, presumably on the plea of ~~xkxx~~ the original offences being non-cognisable, the aggrieved party has to file a regular complaint to the Magistrate, defraying all expenses thereto, which the poorly paid staff cannot afford to pay and so they have to suffer. Very recently on 21/5/32, a Gangman of Nanjangud-Chamarajanagar Railway Section is reported to have been assaulted while he prevented somebody from cutting and removing a dead tree situated within Railway limits. He lodged a complaint before the Magistrate, who refused it for want of stamps. The Executive Engineer requests orders for further action.

As the gangmen have to be given protection in the discharge of Government duties, it is but reasonable that the Department should give help to the party in launching prosecution in such assault cases.

I request you kindly to bring the matter to the notice of Government and obtain orders of Government in the matter of filing complaints by our men when they are assaulted etc., and giving the help of Public Prosecutor or Prosecuting Inspector to conduct such cases, when the Executive Engineer of the Division certified that there is reasonable grounds for filing a complaint. It may —

also be ruled that such cases ~~of~~ should be filed only with the prior approval of the Head of the Department or Agent, if you think it necessary, and cost of stamps, etc., to be paid by Government, if exempted from payment cannot be sanctioned.

'C O P Y'

MSAB/18.-8.-1932.

5

Letter No.94/2/30-31/5206 dated 6/2/1931, from the Superintendent, Way and Works, Mysore Railways, Mysore, to the Inspector_General of Police, Government of Mysore, Bangalore.

Railway maintenance staff such as Gangmen, Gatemen, Keymen, &c.

I have the honour to bring to your notice that the Executive Engineer, Mysore Division, Mysore, reports that one Kulla, Keyman of Gang No.XVII of Bangalore Mysore Section was assaulted on 29/7/30, by some villagers near Hanakere when he was driving to the pound cattle that were grazing in the Rail -way line. The matter was referred to the Assistant Superintendent of Police, Railways and C.I.D., and a copy of his --- reply is enclosed herein. It is reported that the offence is not cognisable by the Police. The Police Officers seem to be under the impression that the Gangmen, Keymen, etc. of the Railway Department are not Government servants and -- hence when they are assaulted, they are not treated as public servants in discharge of their duties. Under Section 3(7) and 119(1) of the Mysore Railway Regulation (IV of 1894) these -- staff are Government servants, who should be protected in the discharge of their duties. Necessary instructions may kindly be issued in the matter and this office advised. If the offence is said to be committed beyond Railway boundary line,-- then the Railway police may perhaps transfer the case to the District Police for needful action.

The Keyman in question has petitioned that due to no action taken against the assaulters, there has been great - trouble in the village to move about. The petitions received in this connection are enclosed herein for information and necessary action.

'C O P Y'

MSAB/18.-8.-1932.

18.8.32

Letter No.C.1064/30 dated 24/2/31, from the Inspector-General ~~of~~ of Police in Mysore, Bangalore, to the Offg: Supdt. Way and Works, Mysore Railways, Mysore.

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With reference to your letter No.5205/Fl.94/2 dated 6th inst., requesting that needful instructions may be given in the matter of prosecuting some villagers of Hanakere for assaulting keyman Kulla of Gang No.XVII of Bangalore Mysore Section on the ground that the staff of gangmen are Government servants within the meaning of section 3 (7) and 119(1) of the Mysore Railways Regulation, I have the honour to state that section (1) of 119 of Railways Regulation lays down that every Railway servant ~~xxxx~~ shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code. This Chapter deals with offence relating to public servants comprising of sections 161 to 171 Indian Penal Code.

2. The offence complained against the villagers is one affecting the human body and falling under section 353 Indian Penal code of Chapter XVI of the Code and not under Chapter IX

Further, the Sub Section 4 of section 119 of the Rly. Regulation makes this point clear, where it reads.

"Notwithstanding anything in section 21 of the Indian Penal Code, a Railway servant shall not be deemed a public servant for any of the purposes of that Code except those mentio -ed in sub section 1".

It follows therefore that a Railway servant is not a public servant for purposes of section 353 of Indian Penal Code to take proceedings against the villagers of ~~Hanxx~~ Hanakere for the offence complained of.

========

'C O P Y'

MSAB/1[illegible]-1932.

18-8-32

MYSORE RAILWAYS

All communications should be addressed to the Agent Mysore Railways, Mysore by TITLE, not by NAME

AGENT'S OFFICE.

Mysore,_____ 193

_____Fl._____

Enc._____

Copy ofletter No.1128 dated 19/8/32 from the Supdt., Way and Works, MYsore Railways, MYsore, to the Agent, Mysore Railways, MYsore.

Assault of railway servants by public.

In continuation of my letter No.582 dated 25/7/32, I beg to forward herewith copy of Executive Engineer's letter No.281 of 10/8/32, for perusal and necessary action. As such cases are getting frequent, I request that Government may be addressed to amend the law suitably in the interest of our workmen and also in the interest of the safety of ~~the~~ line.

'COPY'

MSAB/23.-8.-1932.

23.8.32

Copy of letter No.231 dated 10/8/1932 from the Executive Engineer, Mysore Railways, Mysore, to the Superintendent, Way & Works, Mysore Railways, Mysore.

Trespass on Railway line resulting in assault of Gangmen on 27/5/1932.

In acknowledging receipt of your letter No.583/Fl.1652 dated 25/7/32, forwarding copy of report to the Agent re: assault of gangmen on duty, I beg to report that on 27/5/32, i.e., within a week after the assault of Basava, a gangman on N.C.Railway, Era, Mate of Gang No. 9 in Mysore Section (Mile 283½) attempted to prevent trespass of a villager of Melamaney at mile 283 when No.2 Dn. Mail Train was about to pass the Section.

The trespasser is reported to have assaulted Gangman Laya, who was sent by the Mate to go to the ~~P.W.Inspector~~ trespasser and bring him. The matter was reported by wire to the P.W. Inspector and the Sub Police Inspector, Railways, Mysore, through the Station Master, French Rocks. From the enquiry made by the Railway Police, and statements recorded the offence is termed "Non-Cognizable" and the party is therefore informed to seek redress in a Court of Law by the Railway Police.

The P.W.Inspector who was asked to offer his remarks in the matter states "If the bulls were baught by the engine of No. 2 Down Mail and if there was any accident, such as derailment, it would have affected the safe running of the train service..... The result of the Police in not taking any steps and asking the gangmen to go themselves to Court will in the long run spoil the morale of our men and the Railway Administration, and it will be impossible to safeguard our own interest."

This is again another instance to show that our Gangmen are assaulted for doing legitimate Government work and made to suffer in the end. If, as the Police say, the offence is non-cognisable there is absolutely no safety for our men, and the existing law has to be amended to make the offence cognisable.

I am inclined to think that the case should have been dealt with under Section 103.

---

p.t.o.

Copy of Station Master's message with copy of Superintendent of Police, Railways and C.I.D. in Mysore letter and extract from the Station House Diary are enclosed for information.

.....

Message from Station Master, French Rocks to P. W. Inspector, Mysore, dated 27/5.

GangMate Era reports that a villager of Nelamaney village trespassed on railway line with his bullocks and plough near mile 283 and assaulted Gangman for obstructing trespass. Villager with bullocks secured in station. Kindly come by 1 Up date with S.P.I.R. and dispose of.

.....

Letter No.C.G.1119/31 dated 6/7-6-1932, from the Superintendent of Police, Railways and C.I.D. in Mysore, Bangalore, to the Executive Engineer, Mysore Railways, Mysore.

Adverting to message R. Coded N.I.dated 27th ultimo of the Station Master, French Rocks, regarding trespass on railway line near Mile 283 I have the honour to enclose for information, extract from the Station House Diary dated 28/5/32 of the Sub Inspector, Mysore Range, who enquired into the matter.

'C O P I E S'

MSAB/23.-8.-1932.

Extract from the Station House Diary dated 28/5/1932 of the Sub Inspector, Mysore Range.

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xx xx xx

On 27/5/1932, the Station Master of French Rocks, station sent a message stating that Gang Maistry, Era, reports that a Villager of Nelamaney village, trespassed on railway line with his bullocks and plough near mile 283 and assaulted gangman for obstructing trespass. Villager with bullocks secured in station. Kindly come by 1 Up with S.P.& R.C.

The H.C.went to French Rocks station and recorded the statement of Gang cooly Maya and he stated that on 27/5/32, when all gangmen were working on the line near 293/16-17, one Dasappa of Nelamaney village was found going on the line between the rails driving his two bullocks with loughing materials on them, that as it was about 10:30 A.M., then and 2 Down train was on line between Byadarahalli and French Rocks stations, Maistry shouted that the villager still continued going etc., that he was told by maistry to bring that man to him, that Gang cooly Maya, went and informed, the villager refused. Then Maya held his hand and the villager assaulted him etc.

Meanwhile, another gang cooly, i.e., Keyman, Maistry and others went and caught hold of him and took him(villager) to the Railway station and reported the matter.

The statement of Nelamaney Dasappa was also recorded and he stated that on the day in question he went to his field to do ploughing work with his animals and when he returned, it was about 9 or 9-30 a.m. and he crossed the railway line where there is foot path and no railway level crossing gate and one of the bullocks got fright and went on the railway line, that he too followed it and drove it aside being afraid of the train, meanwhile gangmen came on after the other and did not even allow him to tie the bullocks and drove the same to French Rocks station & he too followed him, etc., and he never assaulted any.

The messages and statements are herein enclosed for kind perusal.

p.t.o.

From the above it is evident that an offence under Section 107 of the Railway Regulation has been committed ~~bh~~ which is non-cognisable by the Police and hence the party is directed to seek redress in a Court of Law.

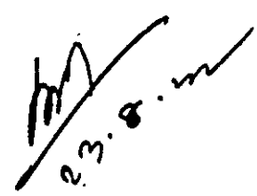
xx xx xx

(sd) R.Muthoji Rao Scindia,

Supdt., of Police, Rys.
and C. I. D., in Mysore.

'C O P Y'

MSAB/23.-8.-1932.



P 1678 / Law 29-32-2
dt 20/9/32

To

The Agent,
Mysore Railways, Mysore.

Assault of Railway Servants by Public.

Sir,

With reference to your letter No.1723 dated 24th August 1932 requesting that whenever there is any unlawful interference with the men of your department, while they are on duty, the case may be ordered to be taken as a Police case, I am directed to state that by virtue of Section 119 of the Mysore Railways Regulation, a Railway servant cannot be deemed to be a public servant for purposes of Section 353 Indian Penal Code. Any ordinary assault of such a servant can be an offence under Section 103 of the Railways Regulation or Section 352 Indian Penal Code both of which are non-cognisable. The Police cannot therefore take up such cases except under the orders of a magistrate. I am therefore to say that no orders of Government in the matter, as suggested by you can be issued. If assault of a railway servant is to be made a cognisable offence under Section 353 Indian Penal Code, legislation would be necessary.

The Superintendent, Ways and Works suggests in his letter of 25th July 1932 that the Railway Department may give help to their

P.T.O.

/3

servants in launching prosections and that in fit cases, the services of the Public Prosecutor or the prosecuting Inspector may be engaged for the purpose. I am to state that this suggestion appears reasonable, but there appears to be no necessity to pass any general orders as proposed. In proper cases, reference may be made to Government and orders obtained for engaging the services of the Public Prosecutor or the Prosecuting Inspector as the case may be.

I have etc.,

5/7

General Secy. to Govt.

TSP

B.K.M.

14

Mop 1678
Law 29-32-2

19th September 1932.

20

The

The Agent,
Mysore Railways,
Mysore.

Assault of Railway servants by public.

With reference to your letter No.1723 dated 24th August 1932 requesting that whenever there is any unlawful interference with the men of your department, while they are on duty, the case may be ordered to be taken as a Police case, I am directed to state that, by virtue of Section 119 of the Mysore Railways Regulation, a Railway servant cannot be deemed to be a public servant for purposes of Section 353 Indian Penal Code. Any ordinary assault of such a servant can be an an offence under Section 103 of the Railways Regulation or Section 352 Indian Penal Code, both of which are non-cognisable. The Police cannot therefore take up such cases except under the orders of a magistrate. I am therefore to say that no orders of Government in the matter, as suggested by you can be issued. If assault of a railway servant is to be made a cognisable offence under Section 353 Indian Penal Code, legislation would be necessary.

The Superintendent, Ways and Works suggests in his letter of 25th July 1932 that the Railway Department may give help to their servants in launching prosecutions and that in fit cases, the services of the Public Prosecutor or the prosecuting Inspector may be engaged for the purpose. I am to state that this suggestion appears reasonable, but there appears to be no necessity to pass any general orders as proposed. In proper cases, reference may be made to Government and orders obtained for engaging the services of the Public Prosecutor or the Prosecuting Inspector as the case may be.

I have the honor to be,
Sir,
Your most obedient servant,

S.R.-2

for General Secretary to Government.